

Department of the Army, DoD

§ 564.41

soon as practicable. The notification of medical care will be made following the format in the appendix. The notification will be reviewed by NGB-ARS and replied to as deemed appropriate.

(c) Status while undergoing hospitalization. The ARNG status of an individual is not affected by virtue of his hospitalization. The provisions of AR 135-200 will apply. Determination of requirement for continued hospitalization will be made by the MTF commander. Paragraph (d) of this section will apply when a final "not in line of duty" determination has been made. Under no condition will an individual be assigned to the medical holding unit of a hospital.

(d) Disposition of hospitalized cases. When it is determined that a hospitalized ARNG member has obtained the maximum benefits from hospitalization and there is no disability remaining from the condition for which hospitalized, he/she will be returned to his/her duty station or, if none, to his/her home of record at the time of entry into the hospital.

APPENDIX

NOTIFICATION OF INJURY

Date _____

SUBJECT: Notification of Medical Care and/or Hospitalized Beyond the End of Training Periods.

THRU: The Adjutant General State of _____
TO: NGB-ARS, Washington, DC 20310.

In accordance with paragraph 8, NGR 40-3, notification of medical care is furnished below:

Name: _____

SSN: _____

Grade: _____

Parent unit and station: _____

Type and inclusive dates of training: _____

Date and place of incident: _____

Diagnosis: _____

LOD status: _____

Name and distance of nearest Federal medical facility: _____

Name and address of medical facilities utilized: _____

Estimated cost and duration of treatment: _____

Summary of incident: _____

(32 U.S.C. 318-320 and 502-505)

§ 564.41 Burial.

(a) *Purpose.* The purpose of this section is to provide policies and des-

ignate responsibilities for the care and disposition of remains of members of the Army National Guard entitled to burial at Federal expense.

(b) *Authority.* Act of 10 August 1956 (70A Stat. 112) as amended, title 10 U.S.C., sections 1481 through 1488, applicable to military personnel and their dependents.

(c) *Policy.* The provisions of AR 638-40 are applicable to battalion and higher level units of the Army National Guard, except as modified herein.

(d) *Responsibilities.* (1) The Chief, National Guard Bureau is responsible for prescribing procedures for the care and disposition of remains of members of the ARNG who die while—

(i) Performing full-time training at other than an Active Army installation under sections 316, 502, 503, 504, and 505, title 32, U.S.C.

(ii) Performing authorized travel to or from training outlined in paragraph (d)(1)(i) of this section.

(iii) Being hospitalized or undergoing treatment at Government expense for an injury incurred or disease contracted while performing duty indicated in paragraphs (d)(1) (i) and (ii) of this section.

(iv) Performing inactive duty training (IDT) under section 502, title 32, U.S.C. (It is to be noted that present law does not provide for payment of burial expenses from Federal funds for ARNG personnel killed while traveling to or from IDT.)

(2) Active Army installations are responsible for the care and disposition of remains of members of the National Guard who die while—

(i) Performing active duty for training under title 10 and training or other full-time training duty at an Active Army installation under sections 502, 503, 504, and 505, title 32, U.S.C.

(ii) Performing authorized travel to or from training specified in paragraph (d)(2)(i) of this section.

(iii) Being hospitalized or receiving treatment at Government expense as a result of injury incurred or disease contracted while performing duty indicated in paragraphs (d)(2) (i) and (ii) of this section.

(3) State adjutants general are responsible for notification of death in accordance with chapter 10, AR 600-10.

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(e) *Limitation of burial expense.* Payment of burial expenses is limited to an amount not exceeding that allowed by the Government for such services and in no circumstances may payment exceed the amount actually expended. The amount allowed when relatives incur the expenses will be in accordance with the following limitation:

(1) If death occurs where a properly approved Contract for Care of Remains is in force (Army, Navy, or Air Force contracts), the amount to be allowed for each item will not exceed the amount allowable under such contract.

(2) If death occurs where no contract is in force, reimbursement for items or services, including preparation and casketing will be limited to the stipulated amount included in chapter 4, AR 638-40.

(3) Reimbursement for transportation will be limited to the amount for which the Government could have obtained required common carrier transportation plus the change made for hearse service from the common carrier terminal to the first place of delivery.

(4) Reimbursement for interment expenses is limited to the amounts provided in chapter 13, AR 638-40.

(f) *Accountability for clothing.* (1) If in a serviceable condition, the uniform in possession of the deceased will be used and accountability dropped in accordance with NGR 710-2.

(2) If a serviceable uniform is not in possession of the deceased, a request for issue of required items will be prepared. Accountability and responsibility for items issued will be terminated by the responsible officer upon execution of a statement on DA Form 3078 or 3345, substantially as follows:

The items of clothing enumerated above were issued to clothe the remains of _____ for funeral purposes. At the time of his/her death, the deceased was a member in good standing in this organization.

(g) *ARNG personnel serving in a non-pay status.* In accordance with title 32, U.S.C. section 503, a member may, with his/her consent, either with or without pay, be ordered to perform training or other duty in addition to that prescribed under title 32, U.S.C. section 502(a). Duty without pay will be consid-

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ered for all purposes as if it were duty with pay.

[44 FR 18489, Mar. 28, 1979]

CLAIMS FOR DAMAGES INVOLVING THE NATIONAL GUARD AND AIR NATIONAL GUARD

SOURCE: Sections 564.51 through 564.58 appear at 19 FR 5168, Aug. 17, 1954, unless otherwise noted. Redesignated at 26 FR 12767, Dec. 30, 1961.

§ 564.51 Purpose.

Sections 564.51 to 564.58 are published for the information and guidance of all concerned to implement the statutory authority by defining the claims payable thereunder and the procedure for establishing, determining, and settling such claims. They provide the exclusive authorization and procedure for the determination and settlement of claims within the following statutory authority.

§ 564.52 Statutory authority.

(a) Limited authority for the payment of claims arising out of National Guard and Air National Guard activities has been granted annually for several years by provisions of the annual Appropriations Act for the Department of Defense. A recent provision is as follows:

The following sums are appropriated, * * * For payment of * * *; claims (not to exceed \$1,000 in any one case) for damages to or loss of private property incident to the operation of Army and Air National Guard camps of instruction, either during the stay of units of said organizations at such camps or while en route thereto or therefrom; * * * (Act of August 1, 1953, Public Law 179, 83d Cong.).

(b) In accordance with general principles of law, the National Guard and the Air National Guard when not in Federal service are not agencies of the United States, and the United States is not liable for injury or damage arising from their activities. Thus, claims for such injury or damage are not cognizable under the Federal Tort Claims Act, as revised and codified (62 Stat. 982, 28 U.S.C. 3671-80). By the statutory provisions referred to in paragraph (a)